

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
)  
Closed Captioning and Video Description )  
of Video Programming )  
)  
Implementation of Section 305 of the )  
Telecommunications Act of 1996 )  
)  
Video Programming Accessibility )

MM Docket No. 95-176

**COMMENTS OF GTE**

GTE Service Corporation, on behalf of its affiliated domestic telephone operating and video companies ("GTE"), respectfully submits these comments in response to the Commission's Notice of Proposed Rulemaking in MM Docket No. 95-176, FCC 97-4, released January 17, 1997 ("Notice"). GTE's comments address some of the proposed requirements found in Section III of the Notice.

**I. Introduction**

Section 305 of the Telecommunications Act of 1996 added a new Section 713, Video Programming Accessibility, to the Communications Act of 1934, as amended.<sup>1</sup> Section 713 requires the Commission to prescribe, by August 8, 1997, rules and

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<sup>1</sup> Pub. L. 104-104, 110 Stat. 56 (1996). Section 713 to the Communications Act, 47 U.S.C. § 613.

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implementation schedules for captioning of video programming.<sup>2</sup> The Notice requests comment on proposed rules and implementation schedules to fulfill the statutory mandate of Section 713. In the Notice, the Commission makes several proposals that are intended to maximize the amount of programming containing closed captioning while taking into account relevant cost and technical issues that may require some exemptions and phased timetables.

**II. Video Programmers and Program Owners should be responsible for compliance with closed captioning requirements.**

The Notice (at 28) proposes that the responsibility for compliance with closed captioning requirements should be placed on video programming providers, which are defined as all entities who provide video programming directly to a customer's home, regardless of the distribution technologies employed by such entities. The proposal is based on two primary presumptions: (1) programming providers are in the best position to ensure that the programming they distribute is closed captioned because of their role in the purchasing of programming from producers, and (2) the direct link between consumers and their video providers is deemed to be important.

GTE believes that responsibility for closed captioning requirements compliance belongs with video programmers and video program owners (hereafter "content providers"). Several commenting parties to the Commission's previous Notice of Inquiry in this proceeding demonstrated that it would be inefficient and burdensome to place

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<sup>2</sup> Section 713 contains provisions concerning closed captioning and video description of video programming. The scope of this Notice is limited to close captioning of video programming.

the captioning requirement at the distribution level.<sup>3</sup> The Notice (at 27) acknowledges that the House Report determined that it was more efficient and economical to caption programming at the time of production rather than impose such requirements on delivery systems. GTE believes that it logically follows that compliance with closed captioning requirements similarly is best met by the parties actually producing the programming. Video programming providers are, at best, a conduit between content providers and consumers in the closed captioning arena. Video programming providers have little, if any, leverage to compel content providers' compliance with the closed captioning rules. Should the Commission, nevertheless, conclude video programming providers must be responsible for compliance, GTE believes that a shared responsibility role, similar to that proposed in the Notice (at 29), would be more appropriate.

*In summary:* The Commission should not place such responsibility solely on video programming providers.

**III. Proposed programming percentage rules should be applied at the highest level possible.**

The Notice (at 43) proposes to apply the percentages of programming that must be captioned on a system-wide basis. Under this approach, a cable operator would be required to transmit a total of 25% of all new, non-exempt programming on its cable system with closed captions by the end of the first benchmark period. GTE believes the rules should be applied at the highest possible level.

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<sup>3</sup> NBC comments at 12; WCA comments at 5; CBS at 21-22; NAB comments at 8; HBO comments at 12.

*In summary:* The proposed system-wide basis appears adequate.

**IV. Compliance Reporting requirements should be minimal.**

The Notice (at 124) seeks comment whether entities responsible for compliance with closed captioning rules should be required to retain in a public file, or have available on request, records sufficient to verify compliance. GTE believes the Commission's tentative conclusion to enforce its closed captioning requirements through the existing types of complaint processes is correct and that the Commission should consciously strive to minimize the need for any record keeping requirements it deems necessary to verify compliance and/or resolve complaints. While it may be probable that monitoring or some recordkeeping may be required to meet such purposes, GTE maintains that the Commission must avoid assigning burdensome monitoring or reporting requirements to video programming providers. Simply stated, placing a heavy burden on video programming providers in this area makes no sense. However, in any complaint proceedings, GTE believes the complaining party should bear the burden of proof. GTE suggests a compliance mechanism similar to the one ordered in the Children's Programming rules proceeding might be appropriate and would achieve a correct balance between compliance verification needs and an unrealistic monitoring/reporting burden on video programming providers.

*In summary:* The Commission should rely on the complaint process to monitor compliance.

**V. Conclusion**

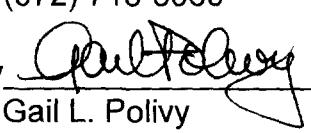
Responsibility for compliance with closed captioning requirements properly belongs with content providers; the parties that actually produce the programming. In no event should compliance responsibility be placed solely on video programming providers. Rules defining the percentages of programming that must be captioned should be applied at the highest level possible and no lower than a system-wide basis. The Commission's tentative conclusion to use existing complaint processes to enforce closed captioning requirements is correct. When defining record keeping requirements necessary for enforcement, the Commission must avoid assigning burdensome monitoring or reporting requirements to video programming providers. GTE maintains the complaining party should bear the burden of proof in any compliance disputes.

Respectfully submitted,

GTE Service Corporation, and its affiliated  
domestic telephone operating and video  
companies

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